IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2006

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THE HON'BLE MR.JUSTICE A. KULASEKARAN

Writ Petition No.9752 of 2003

K.Sengodan .. Petitioner

vs.

1. The State of Tamil Nadu
   rep. by its Secretary to the Government,
   Industries Department,
   Fort St. George,
   Chennai - 600 009

2. Chemplast Sanmar Limited,
   PVC Division,
   rep. by the General Manager (Purchase),
   9, Cathedral Road,
   Chennai - 600 086

3. Sankari Chemical Industries Ltd.,
   rep. by its Managing Director,
   No.3/3, 23-A, Bharathi Nagar,
   Akkamapettai (PO)
   Sankari (TK), Salem 637 301 .. Respondents

This Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus directing the first respondent to initiate action against the third respondent under Section 16B of the Land Acquisition Act, 1894 and forfeit the lands in old Survey No.34 (New Survey No.92/2B) of Iveli village, Sankari Taluk, Salem District to an extent of 2.67 Acres granted as per G.O.Ms.No.165 dated 12.9.2001 and consequently reconvey the lands to the petitioner herein.

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For petitioner : Mr.G.Arul Murugan

For respondents : Mr.M.Dhandapani
Additional Government Pleader
for R1
Mr.S.Raghunathan
Ms.T.Poornam for R2 and R3

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O R D E R

This writ petition has been filed praying for a Writ of Mandamus to direct the first respondent to initiate action against the third respondent under Section 16B of the Land Acquisition Act, 1894 and forfeit the lands in old Survey No.34 (New Survey No.92/2B) of Iveli village, Sankari Taluk, Salem District to an extent of 2.67 Acres granted as per G.O.Ms.No.165 dated 12.9.2001 and consequently reconvey the lands to the petitioner herein.

2. The learned counsel for the petitioner submits that the petitioner's lands were acquired for mining operation by the second respondent. Since, the second respondent unable to continue the mining operation, he sought permission from the Government to transfer the same to the third respondent for mining operation, which was also ordered in G.O.Ms.No.165 dated 12.9.2001. The third respondent, contrary to the purpose for which the lands were acquired is attempting to convert the said lands as house site, hence, the first respondent is duty bound to take action against the third respondent under Section 16B of the Land Acquisition Act, 1894 (herein after referred to as the Act) to forfeit the lands, but it failed, hence the writ petition is filed.

3. The learned counsel appearing for the second and third respondent submitted that the lands were acquired for private companies, which cannot be stated as public purpose, hence, Section 16B of the Act cannot be made applicable to the present case, moreover third respondent is not converting it for residential purpose and prayed for dismissal of the writ petition.

4. This Court considered the arguments of the counsel on both sides. In this context, it is relevant to look into Section 3F as well as Section 16B of the Act, which reads as follows:

> Section 3f of the Act:
>
> the expression "Public purpose", includes:-
>
> (i) the provision of village-sites, or the extension, planned development or improvement of existing village-sites;
>
> (ii) the provision of land for town or rural planning;
>
> (iii) the provision of land for planned development of land from public funds in pursuance of any scheme or policy of Government and subsequent disposal thereof in whole or in

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part by lease, assignment or outright sale with the object of securing further development as planned;

(iv) the provision of land for a corporation owned or controlled by the State;

(v) the provision land for residential purposes to the poor or landless or to persons residing in areas affected by natural calamities, or to persons displaced or affected by reason of the implementation of any scheme undertaken by Government, any local authority or a corporation owned or controlled by the State;

(vi) the provision of land for carrying out any educational, housing, health or slum clearance scheme sponsored by Government or by any authority established by Government for carrying out any such scheme, or, with the prior approval of the appropriate Government, by a local authority, or a society registered under the Societies Registration Act, 1860, or under any corresponding law for the time being in force in a State, or a Co-operative society within the meaning of any law relating to Co-operative societies for the time being in force in any State;

(vii) the provision of land for any other scheme of development sponsored by Government, or, with the prior approval of the appropriate Government, by a local authority;

(viii) the provision of any premises or building for locating a public office;

but does not include acquisition of land for Companies;)

16B: Land to be forfeited in certain cases:- Where the Government are satisfied that the land acquired under this Act for any public purpose as referred to in sub-Section (1) of Section 4 is not used for the purpose for which it was acquired, they may, by an order, forfeit the land as penalty and the land shall vest in the Government in Revenue Department free from all encumbrances:

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Provided that no order under this Section, shall be made unless the person or authority aggrieved has had a reasonable opportunity of being heard."

5. Public purpose is defined in Section 3F of the Act, which does not include acquisition of land for companies. Section 16 B of the Act can be invoked by the Government if the land is not used for the purpose it was acquired, then, the Government may, by order, forfeit the land as penalty and the land shall vest with the government in revenue department free from all encumbrances.

6. The public purpose is defined in Section 3 (f), which excludes the land, which is acquired for the company, hence, Section 16 (b) of the Act cannot be invoked in this case, moreover the land in dispute were acquired for the benefit of the second respondent-Company, which was later transferred to the third respondent for carrying out only mining operation and it is stated that the third respondent is not converting the said land as house sites as alleged by the petitioner.

7. In view of the above said facts, this Court finds that there is no valid reason assigned by the petitioner to grant the relief sought for by the petitioner. The writ petition is dismissed. No costs.

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Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To

The Secretary, The State of Tamil Nadu,Industries Department,
Fort St. George,Chennai - 600 009.

+ one cc to Mr.G.Arul Murugan, Advocate Sr.No.27376.
+ one cc to Mr.S.Raghunathan, Advocate Sr.No.27304.
+ one cc to Government Pleader, Sr.No.27245.

TEJ (CO)/RSM/19.7.2006

W.P.No.9752 of 2003

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